

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JESSICA DENSON, Individually and on
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

DONALD J. TRUMP FOR PRESIDENT, INC.,

Defendant.

No. 20 Civ. 4737 (PGG)

**DECLARATION OF DAVID K. BOWLES IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

I, DAVID K. BOWLES, declare as follows:

1. I am counsel to lead plaintiff Jessica Denson. I make the following declaration as of my personal knowledge, except where such allegations are made on information and belief, wherein I so state.

2. Ms. Denson retained my co-counsel Maury B. Josephson and me in October of 2018 to represent her in various litigations that she had initiated *pro se* against defendant Donald J. Trump for President, Inc. (the "Campaign") regarding the Campaign's Form NDA.

3. Attached as Exhibit A hereto is a true and correct copy of the New York Department of State's Entity Information Database Entry for Donald J. Trump for President, Inc., which is current as of July 27, 2020.

4. Attached as Exhibit B hereto is a true and correct copy of the Campaign's FEC Form 1 (*Statement of Organization*), registering the Campaign with the Federal Election Commission as then-candidate Donald J. Trump's Primary Campaign Committee on June 29, 2015.

5. Attached as Exhibit C hereto is a true and correct copy of the catalogue of the Campaign's filings with the Federal Election Commission, current as of July 28, 2020.

6. Attached hereto as Exhibit D is a true and correct copy of a *New York Times* article entitled, *Donald Trump Claims Nomination, With Discord Clear but Family Cheering*, dated July 19, 2016, indicating that the Republican National Convention voted to make Donald J. Trump its party's nominee for the office of President of the United States as of the date of the article.

7. Attached hereto as Exhibit E is a true and correct copy of an exhibit to a federal court filing in the case *Sims v. Trump*, No. 19-cv-0345 (CKK) (D.D.C.), ECF No. 8-2 (filed April 25, 2019). This Form NDA, which was signed by former Campaign employee Cliff Sims, is identical to the one Ms. Denson signed in all material respects. The signers' names and signatures differ, and in paragraph 3 of Exhibit E—the "No Competitive Services" clause, Mr. Sims's Form NDA specifies that he may not assist "any person that is a candidate or exploring candidacy for *federal or state office* other than Mr. Trump," (emphasis added), whereas paragraph 3 of the Form NDA Ms. Denson signed specifies that she may not assist "any person that is a candidate or exploring candidacy for *President of the United States* other than Mr. Trump," Denson Decl. Ex. A (emphasis added).

8. Attached hereto as Exhibit F is a true and correct copy of an exhibit to a federal court filing in the case of *United States v. Newman*, No. 19-cv-1868 (RJL) (D.D.C.), ECF No. 19-2 (filed July 1, 2020). This Form NDA, which was signed by former Campaign employee Omarosa Manigault Newman, is identical to the one Ms. Denson signed in all material respects—only the signers' names and signatures differ.

9. Attached hereto as Exhibit G is an August 13, 2018, *Washington Post* article entitled, *'Everyone Signed One': Trump Is Aggressive In His Use of Nondisclosure Agreements, Even In Government*, quoting a former campaign aide as saying, "Everyone signed one." This article is also available at https://www.washingtonpost.com/politics/everyone-signed-one-trump-is-aggressive-in-his-use-of-nondisclosure-agreements-even-in-government/2018/08/13/9d0315ba-9f15-11e8-93e3-24d1703d2a7a_story.html.

10. Attached as Exhibit H hereto is a true and correct copy of an excerpt from a transcript of certain testimony given by Michael Cohen, the former attorney for President Trump, as given before the United States House of Representatives on February 27, 2019.

11. Attached hereto as Exhibit I is an August 22, 2018, *Washington Post* article entitled, *How Donald Trump Turned Omarosa's "Unhinged" Tell-All Into A Bestseller*, noting that former campaign and White House staffer Omarosa Maigault Newman had published a book entitled, *Unhinged: An Insider's Account of the Trump White House*, on August 14, 2018. This article is also available at https://www.washingtonpost.com/entertainment/books/how-donald-trump-turned-omarosas-unhinged-tell-all-into-a-bestseller/2018/08/22/89402bb4-a58a-11e8-97ce-cc9042272f07_story.html.

12. Attached hereto as Exhibit J is an August 14, 2018, CNN article entitled, *Trump Campaign Taking Legal Steps Against Omarosa*, noting that the Campaign had filed an arbitration against Ms. Newman based on an alleged breach of her NDA. This article is also available at <https://www.cnn.com/2018/08/14/politics/omarosa-trump-campaign/index.html>.

13. Attached hereto as Exhibit K is a true and correct copy of an August 31, 2019, tweet by President Trump stating: ". . . Yes, I am currently suing various people for violating their confidentiality agreements. Disgusting and foul mouthed Omarosa is one. I gave her every

break, despite the fact that she was despised by everyone, and she went for some cheap money from a book. Numerous others also!” This tweet is also available at <https://twitter.com/realdonaldtrump/status/1167783720021123073>.

14. Attached hereto as Exhibit L is a true and correct copy of an exhibit to a federal court filing in *United States v. Newman*, No. 19-cv-1868 (RJL) (D.D.C.), ECF No. 19-1 (filed July 1, 2020), consisting of the Trump Campaign’s August 14, 2018, arbitration demand against Ms. Newman. In the demand, the Trump Campaign alleges that Ms. Newman violated the Form NDA’s non-disparagement clause when she responded to an interview’s question about whether she would vote for President Trump again by saying, “God no, never. In a million years, never.”

15. Attached hereto as Exhibit M is a true and correct copy of a federal court filing in *United States v. Newman*, No. 19-cv-1868 (RJL) (D.D.C.), ECF No. 19 (filed July 1, 2020), consisting of Defendant Newman’s Response to Plaintiff’s Motion to Compel. In the brief, Ms. Newman’s lawyers represent that “[t]he Campaign recently added nearly four hundred additional counts to the arbitration action and is keeping tabs on everything she says and does.”

16. Attached hereto as Exhibit N is a January 29, 2019, *USA Today* article entitled, *Donald Trump: Aide-Turned-Author Cliff Sims Violated Non-Disclosure Agreement*, reporting that then-Campaign Chief Operating Officer Michael Glassner tweeted “The Trump campaign is preparing to file suit against Cliff Sims for violating our NDA,” based on Mr. Sims publication of the book *Team of Vipers* about his experiences working for the Campaign and in the White House. The article is also available at <https://www.usatoday.com/story/news/politics/2019/01/29/donald-trump-cliff-sims-team-of-vipers/2708590002/>.

17. Attached hereto as Exhibit O is a January 29, 2019, tweet from President Trump stating that: “A low level staffer that I hardly knew named Cliff Sims wrote yet another boring book based on made up stories and fiction. He pretended to be an insider when in fact he was nothing more than a gofer. He signed a non-disclosure agreement. He is a mess!” The tweet is also available at <https://twitter.com/realdonaldtrump/status/1090244651578204160>.

18. Attached hereto as Exhibit P is a true and correct copy of a September 5, 2019, CNN article entitled, *Former Trump Campaign Staffer Drops Lawsuit But Stands By Claims He Forcibly Kissed Her*. The article quotes Campaign attorney Charles Harder as stating that the Campaign and President Trump were “weighing their legal options against Ms. Johnson at this time, and have demanded that she reimburse them for the attorneys’ fees and costs they incurred in her failed lawsuit.” The article is also available at <https://www.cnn.com/2019/09/05/politics/alva-johnson-trump-lawsuit-sexual-assault-allegations/index.html>.

19. Attached as Exhibit Q is a true and correct copy of a final award issued by the arbitrator in the First Arbitration on December 11, 2018.

20. Attached hereto as Exhibit R is a true and correct copy of a letter the Campaign submitted in the State Action seeking to confirm the arbitration award, filed on June 12, 2019.

21. Attached hereto as Exhibit S is a true and correct copy of the Campaign’s motion to confirm the arbitration award and memorandum of law in support thereof, filed in *Denson v. Donald J. Trump for President, Inc.*, No. 18-cv-2690 (JMF) (S.D.N.Y.) (the “First Federal Action”) on December 21, 2018, ECF Nos. 29, 31.

22. Attached hereto as Exhibit T is an order, issued July 8, 2019, in *Denson v. Donald J. Trump for President, Inc.*, Index No. 101616/17 (N.Y. Sup. Ct.) (the “State Action”), confirming the arbitration award.

23. Attached hereto as Exhibit U is an opinion and order, issued in the First Federal Action on July 23, 2019, holding that the confirmation of the arbitration award in the State Action mooted the Campaign’s motion to affirm the award and precluded any further consideration of the issues.

24. Attached as Exhibit V is a true and correct copy of the Arbitration Demand and Statement of Claim for a class action arbitration that we filed on Ms. Denson’s behalf before the American Arbitration Association (the “AAA”) on February 20, 2019 (the “Class Arbitration”).

25. Attached as Exhibit W is a true and correct copy of a letter from counsel for the Campaign to the AAA on March 18, 2019, requesting that the matter be heard by Arbitrator Kehoe, the arbitrator who decided the first arbitration between the Campaign and Ms. Denson.

26. Attached as Exhibit X is a true and correct copy of an email dated May 29, 2019 from counsel for the Campaign to the AAA indicating that the Campaign declined to consent to the AAA’s jurisdiction over the Class Arbitration.

27. Attached as Exhibit Y is a true and correct copy of a brief dated June 3, 2019, submitted by the Campaign in the First Federal Action, in which the Campaign stated that “if plaintiff wants to proceed with a class action lawsuit, she must file her purported claims in court, rather than with the AAA.”

28. Attached as Exhibit Z is an opinion and order from the New York Supreme Court Appellate Division, First Department, dated February 6, 2020.

29. Attached as Exhibit AA is a true and correct copy of President Trump's Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e), filed with the FEC on July 15, 2015.

30. Attached hereto as Exhibits BB, CC, DD, and EE are true and correct copies of two restraining notices and two information subpoenas the Campaign served on Ms. Denson's attorneys regarding their escrow accounts, among other things.

31. I declare under penalty of perjury that the foregoing is true and correct. Executed on Thursday, July 30, 2020.

A handwritten signature in blue ink, appearing to read 'DKB', is positioned above a horizontal line.

David K. Bowles